

The Commonwealth of Massachusetts

**DEPARTMENT OF
TELECOMMUNICATIONS AND ENERGY**

VIA EMAIL AND FIRST CLASS MAIL

MEMORANDUM

TO: Verizon New England, Inc. d/b/a Verizon Massachusetts
Verizon Petition for Arbitration Service List (via first class mail only)
DTE CLEC General Distribution List (via first class mail and email)
Verizon CLEC Email Contact List (via email only)
D.T.E. 04-33 Email List (via email only)

FROM: Tina W. Chin, Hearing Officer

DATE: March 26, 2004

RE: D.T.E. 04-33 - Petition of Verizon New England, Inc. d/b/a Verizon
Massachusetts for Arbitration of Interconnection Agreements with Competitive
Local Exchange Carriers and Commercial Mobile Radio Service Providers in
Massachusetts Pursuant to Section 252 of the Communications Act of 1934, as
amended, and the Triennial Review Order

CC: Mary Cottrell, Secretary

In its Petition for Arbitration filed with the Department of Telecommunications and Energy ("Department"), Verizon New England, Inc. d/b/a Verizon Massachusetts ("Verizon") seeks to amend its interconnection agreements with approximately 130 competitive local exchange carriers and commercial mobile radio service providers (collectively, "CLECs"). Verizon indicates in its Petition that a copy of the Petition was served on each of the CLECs, although, only approximately one third of the CLECs filed a response to the Petition.

Presently, the Department is considering several motions to dismiss the Petition (see attached Hearing Officer Memorandum issued March 18, 2004, designated as Attachment 1); thus, a procedural schedule has not yet been established for this proceeding. Further, the Department has not determined whether to proceed with Verizon's Petition in the consolidated manner proposed by Verizon. However, before the Department can make that determination, it is necessary that the Department receive an initial response from all CLECs named in

Verizon's Petition.¹ Accordingly, the Department hereby extends the date in which CLECs may submit a response to the Petition to **Friday, April 9, 2004**.^{2, 3}

At a minimum, the CLECs who have not responded to the Petition must submit a letter affirming their intent to participate in the arbitration as well as a statement of the type and extent of participation that can be expected. If the CLEC does not intend to actively participate, the CLEC must identify which other party or parties will represent its interest in this arbitration proceeding. Finally, the letter of intent must also include the name, address, phone number, fax number and email address of all persons to include on the service list, and must be filed with the Department by close of business on **Friday, April 9, 2004**. Failure to submit a response or a letter of intent will affect that CLECs right to participate in this arbitration and thus could result in a decision adverse to that CLECs' interests.⁴

Additionally, in order to permit those CLECs who have not yet responded to the Petition to comment on the motions to dismiss in their responses or letters of intent, the Department hereby extends the deadline for filing responses to the motions to dismiss to **Friday, April 9, 2004**. Replies to the responses to the motions to dismiss will be due on **Friday, April 16, 2004**.

¹ A list of CLECs who have not responded to Verizon's Petition is attached as Attachment 2.

² The April 9, 2004 filing deadline renders Qwest Communications Corporation's Motion for Extension of Time to Respond moot.

³ The Department notes that § 252(b)(4)(B) of the Telecommunications Act of 1996 ("Act") states, in relevant part, that the "State commission may require the petitioning party or the responding party to provide such information as may be necessary for the State commission to reach a decision on the unresolved issues." Accordingly, the Department may request information, such as a response to the petition, if the Department deems it necessary to reach a decision on the unresolved issues. Here, the Department finds that a response to the petition is not only necessary for it to reach a substantive decision on the issues, but also to decide procedural issues such as whether to proceed with the petition on a consolidated basis.

⁴ Section 252(b)(4)(B) of the Act states, in relevant part, that "[i]f any party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State commission, then the State commission may proceed on the basis of the best information available to it from whatever source derived." Additionally, § 252(b)(5) of the Act states, in relevant part, that the "refusal of any other party to the negotiation... to cooperate with the State commission in carrying out its function as an arbitrator... shall be considered a failure to negotiate in good faith."

Please be advised that the original of any and all filings, including the letters of intent as well as the comments and replies to the Motions to Dismiss must be filed with Mary L. Cottrell, Secretary, Department of Telecommunications and Energy, One South Station, Second Floor, Boston, MA 02110. Copies of all filings must also be submitted to: Tina W. Chin, Hearing Officer, Michael Isenberg, Director, Telecommunications Division, April Mulqueen, Assistant Director, Telecommunications Division, and Paula Foley, Assistant General Counsel. All written pleadings or comments must also be submitted in electronic format using one of the following methods: (1) by e-mail attachment to Tina.Chin@state.ma.us and dte.efiling@state.ma.us; or (2) on a 3.5" disk, IBM-compatible format. The text of the e-mail or the disk label must specify: (1) the docket number of the proceeding (D.T.E. 04-33), (2) the name of the person or company submitting the filing, and (3) a brief descriptive title of the document (e.g., Comments or Petition to Intervene). The electronic filing should also include the name, title, and phone number of a person to contact in the event of a question about the filing. Text responses should be written in either WordPerfect (naming the document with a ".wpd" suffix), in Microsoft Word (naming the document with a ".doc" suffix), or as an Adobe PDF file (naming the document with a ".pdf" suffix). Data or spreadsheet responses should be compatible with Microsoft Excel. All comments and requests to participate submitted in electronic format will be posted on the Department's website: <http://www.mass.gov.dpu>.

Additionally, all filings with the Department must be served both electronically and by paper on Verizon and the CLECs. After receipt of any additional responses or letters of intent, the Department will issue a revised service list for exchange of materials among the participants to this proceeding. In the interim, for paper distribution, please utilize the service list attached to the Petition designated as Attachment 3. For electronic distribution, carriers may continue to utilize the Department's electronic DTE CLEC General Distribution List (Attachment 4), Verizon's CLEC Email Contact List (Attachment 5), and the current D.T.E. 04-33 Email List (Attachment 6). Should you have any questions, I may be reached at (617) 305-3578.